

§ 1000.336 Does the Tribe/Consortium have to return funds used in the operation of a retroceded program?

The Tribe/Consortium and the Secretary must negotiate the amount of funding to be returned to the Secretary for the operation of the retroceded program. This amount must be based on such factors as the time remaining or functions remaining in the funding cycle or as provided in the AFA.

§ 1000.337 Does the Tribe/Consortium have to return property used in the operation of a retroceded program?

On the effective date of any retrocession, the Tribe/Consortium must return all property and equipment, and title thereto:

(a) That was acquired under the AFA for the program being retroceded; and

(b) That has a per item value in excess of \$5,000 at the time of the retrocession, or as otherwise provided in the AFA.

§ 1000.338 What happens to a Tribe's/Consortium's mature contract status if it has retroceded a program that is also available for self-determination contracting?

Retrocession has no effect on mature contract status, provided that the 3 most recent audits covering activities administered by the Tribe have no unresolved material audit exceptions.

§ 1000.339 How does retrocession affect a bureau's operation of the retroceded program?

The level of operation of the program will depend upon the amount of funding that is returned with the retrocession.

Subpart O—Trust Evaluation Review

§ 1000.350 What is the purpose of this subpart?

This subpart describes how the trust responsibility of the United States is legally maintained through a system of trust evaluations when Tribes/Consortia perform trust functions through AFAs under the Tribal Self-Governance Act of 1994. It describes the principles and processes upon which trust evaluations will be based.

§ 1000.351 Does the Tribal Self-Governance Act of 1994 alter the trust responsibility of the United States to Indian Tribes and individuals under self-governance?

No, the Act does, however, permit a Tribe/Consortium to assume management responsibilities for trust assets and resources on its own behalf and on behalf of individual Indians. Under the Act, the Secretary has a trust responsibility to conduct annual trust evaluations of Tribal performance of trust functions to ensure that Tribal and individual trust assets and resources are managed in accordance with the legal principles and standards governing the performance of trust functions if trust assets or resources are found to be in imminent jeopardy.

§ 1000.352 What are "trust resources" for the purposes of the trust evaluation process?

(a) Trust resources include property and interests in property:

(1) That are held in trust by the United States for the benefit of a Tribe or individual Indians; or

(2) That are subject to restrictions upon alienation.

(b) Trust assets include:

(1) Other assets, trust revenue, royalties, or rental, including natural resources, land, water, minerals, funds, property, assets, or claims, and any intangible right or interest in any of the foregoing;

(2) Any other property, asset, or interest therein, or treaty right for which the United States is charged with a trust responsibility. For example, water rights and off-reservation treaty rights.

(c) This definition defines trust resources for purposes of the trust evaluation process only.

§ 1000.353 What are "trust functions" for the purposes of the trust evaluation process?

Trust functions are those programs necessary to the management of assets held in trust by the United States for an Indian Tribe or individual Indian.